

AFFIDAVIT OF THEODORE C. SHERWOOD

STATE OF OKLAHOMA

)

)

ss.

COUNTY OF TULSA

)

I, Theodore C. Sherwood, being of lawful age and having personal knowledge of the facts stated below, do hereby state upon my oath as follows:

1. I graduated from the University of Oklahoma College of Law in 1983. Since then, my practice has been primarily in the area of personal injury and medical negligence. I have tried approximately 75 jury trials as lead trial counsel in both state and federal courts of Oklahoma. I have been a Fellow in the American College of Trial Lawyers since 2006. In addition, I have professionally mediated over 1,000 cases since 2012 including 50-70 bad faith cases. I have been a member of the Nation Association of Distinguished Neutrals since 2014. I have served as an expert witness in several bad faith cases as well as attorney's fees disputes.

2. I have been asked to prepare this Affidavit in support of Miller Johnson Jones Antonisse & White PLLC's (hereinafter "MJJAW") Motion for Attorney Fees and Prejudgment Interest, as an expert in the matters addressed therein.

3. In bad faith cases such as this, I believe hourly rates of \$350 for partners, \$300 for associates, and \$100 for paralegals are fair and reasonable in the Tulsa and Oklahoma City markets, especially given attorney Miller and his Firm's reputation and experience.

4. I believe a fee enhancement up to 30% is appropriate in this particular case for the following reasons:

5. Bad faith cases are time consuming and expensive to prosecute because they usually involve litigation with an insurance company worth billions. Bad faith cases can also be hard to win especially where the contract amount in dispute is relatively small. MJJAW

survived motions for summary judgment on both bad faith and punitive damages, something that can be difficult to do in Federal Court. Further, in Federal Court, the Plaintiff must obtain a unanimous verdict which is a high bar.

6. When a law firm undertakes a contingency fee case, other employment is necessarily precluded for multiple attorneys and staff.

7. I have mediated numerous cases for Brad Miller and other attorneys in the MJJAW law firm. In my experience, the MJJAW firm will spare no time or expense to fully and completely prepare a case for trial. As such, I believe the hours billed by MJJAW in this case were reasonable and necessary to a successful outcome.

8. In this case it is my understanding State Farm filed an offer to confess for \$50,000 inclusive of attorneys fees. This strategy alone makes these cases less desirable on the part of plaintiff's counsel because of the pressure brought to bear on the client when fee-and-cost-shifting becomes possible.

9. In my experience, plaintiff's counsel frequently will require a 50% contingency fee to offset the inherent risk in accepting a challenging case with an uncertain outcome.

10. The fact that this case was tried to verdict within 18 months of the underlying event is also unusual, and commendable, in my experience.

FURTHER AFFIANT SAYETH NOT.



Theodore C. Sherwood

SUBSCRIBED AND SWORN BEFORE ME this 22nd day of November, 2022.



Notary Public

My Commission Expires: 4/8/23

Commission Number: 11003304

